

EDMUND G. BROWN JR., Attorney General
of the State of California
PAUL C. AMENT
Supervising Deputy Attorney General
E. A. JONES, III, State Bar No. 71375
Deputy Attorney General
ELAINE GYURKO
Senior Legal Analyst
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 897-4944
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke Probation
Against:

Case No. R-2098

**PETITION TO REVOKE
PROBATION**

SARAH ANNE MEYERS
14535 Cordial Lane #310
Huntersville, North Carolina 28078

Respiratory Care Practitioner License No. 25152

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California (Board), Department of Consumer Affairs.

2. On or about May 26, 2006, the Board issued Respiratory Care Practitioner License No. 25152 to Sarah Anne Meyers (Respondent). This license was in effect at all times relevant to the charges brought herein and will expire on August 31, 2007, unless renewed.

3. In a disciplinary action entitled *In the Matter of the Statement of Issues Against Sarah Anne Meyers*, Case No. S-355, the Board issued a decision effective May 26,

1 2006, in which Respondent was issued a probationary license with terms and conditions for a
2 period of two (2) years. A copy of that decision is attached as Exhibit 1 and is incorporated
3 herein by reference.

4 JURISDICTION

5 4. This Petition to Revoke Probation is brought before the Board under the
6 authority of the following laws. All section references are to the Business and Professions Code
7 (Code) unless otherwise indicated.

8 5. Section 3710 of the Code states: “The Respiratory Care Board of
9 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
10 8.3, the Respiratory Care Practice Act].”

11 6. Section 3718 of the Code states: “The board shall issue, deny, suspend,
12 and revoke licenses to practice respiratory care as provided in this chapter.”

13 7. Section 3754 of the Code states: “The board may deny an application for,
14 or issue with terms and conditions, or suspend or revoke, or impose probationary conditions
15 upon, a license in any decision made after a hearing, as provided in Section 3753.”

16 COST RECOVERY

17 8. Section 3753.5, subdivision (a) of the Code states:
18 “In any order issued in resolution of a disciplinary proceeding before the board,
19 the board or the administrative law judge may direct any practitioner or applicant found to have
20 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
21 investigation and prosecution of the case.”

22 9. Section 3753.7 of the Code states:
23 “For purposes of the Respiratory Care Practice Act, costs of prosecution shall
24 include attorney general or other prosecuting attorney fees, expert witness fees, and other
25 administrative, filing, and service fees.”

26 10. Section 3753.1, subdivision (a) of the Code states:
27 “An administrative disciplinary decision imposing terms of probation may
28 include, among other things, a requirement that the licensee-probationer pay the monetary costs

1 associated with monitoring the probation.”

2 FIRST CAUSE TO REVOKE PROBATION

3 (Abstain from Use of Any and All Mood Altering Substances)

4 11. At all times after the effective date of Respondent’s probation, Condition 3
5 stated:

6 Respondent shall completely abstain from the possession or use of alcohol,
7 controlled substances, dangerous drugs, and any and all other mood altering drugs,
8 substances and their associated paraphernalia, except when the drugs are lawfully
9 prescribed by a licensed practitioner as part of a documented medical treatment.

10 Respondent shall execute a release authorizing the release of pharmacy and
11 prescribing records as well as physical and mental health records. Respondent shall also
12 provide information of treating physicians, counselors or any other treating professionals
13 as requested by the Board.

14 Respondent shall ensure that she is not in the presence of or in the same physical
15 location as individuals who are using illegal substances, even if Respondent is not
16 personally ingesting the drug(s).

17 Any positive result that registers over the established laboratory cutoff level shall
18 constitute a violation of probation and shall result in the filing of an accusation and/or a
19 petition to revoke probation against Respondent’s respiratory care practitioner license.

20 Respondent also understands and agrees that any positive result that registers over
21 the established laboratory cutoff level shall be reported to each of Respondent’s
22 employers.

23 12. Respondent’s probation is subject to revocation because she failed to
24 comply with Probation Condition 3, referenced above. The facts and circumstances regarding
25 this violation are as follows:

26 A. On October 12, 2006, Respondent appeared at a collection site to provide a
27 urine specimen for testing and analysis in accordance with her probation monitoring
28 program. The laboratory report from Compass Vision Inc. (CVI) indicated she tested

1 positive for Ethyl Glucuronide at a level of 1500 ng/mL, indicating consumption of
2 alcohol. On her Drug Questionnaire dated January 5, 2007, Respondent admitted that she
3 consumed one or two beers on October 11, 2006.

4 B On December 19, 2006, Respondent provided a urine specimen for testing
5 and analysis. The laboratory report from CVI indicated she tested positive for Ethyl
6 Glucuronide at a level of 2500 ng/mL.

7 C. On January 16, 2007, Respondent provided a urine specimen for testing
8 and analysis. The laboratory report from CVI indicated she tested positive for Ethyl
9 Glucuronide at a level of 5500 ng/mL.

10 SECOND CAUSE TO REVOKE PROBATION

11 13. At all times after the effective date of Respondent's probation, Condition
12 12 stated:

13 Respondent shall pay to the Board a sum not to exceed the costs of the
14 investigation and prosecution of this case. That sum shall be \$1,351.50 and shall be paid
15 in full directly to the Board, in equal quarterly payments, within 12 months from the
16 effective date of this decision. Cost recovery will not be tolled.

17 If Respondent is unable to submit costs timely, she shall be required instead to
18 submit an explanation of why he is unable to submit these costs in part or in entirety, and
19 the date(s) she will be able to submit the costs including payment amount(s). Supporting
20 documentation and evidence of why the Respondent is unable to make such payment(s)
21 must accompany this submission.

22 Respondent understands that failure to submit costs timely is a violation of
23 probation, and submission of evidence demonstrating financial hardship does not
24 preclude the Board from pursuing further disciplinary action. However, Respondent
25 understands that providing evidence and supporting documentation of financial hardship
26 may delay further disciplinary action.

27 Consideration to financial hardship will not be given should Respondent violate
28 this term and condition, unless an unexpected AND unavoidable hardship is established

from the date of this order to the date payment(s) is due.

The filing of bankruptcy by the Respondent shall not relieve the Respondent of her responsibility to reimburse the Board for these costs.

14. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 12, referenced above. The facts and circumstances regarding this violation are as follows:

Respondent is delinquent in her cost recovery in the amount of \$764.24.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking the probation that was granted by the Respiratory Care Board of California in Case No. S-355;
2. Revoking or suspending Respiratory Care Practitioner License No. 25152 issued to Sarah Anne Meyers;
3. Ordering Sarah Anne Meyers to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if probation is continued or extended, the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: August 16, 2007

Original signed by: _____
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant